

## HOUSE BILL NO. HB0260

Child custody.

Sponsored by: Representative(s) Olsen, Biteman, Brown,  
Flitner, Northrup, Pownall, Salazar and  
Winters and Senator(s) Agar, Boner and Coe

A BILL

for

1 AN ACT relating to child custody and visitation; providing  
2 a presumption for issuance of an order of shared custody as  
3 specified; including tax refunds in the definition of  
4 income for determination of child support; amending the  
5 calculation for presumptive child support as specified;  
6 amending imputed income of a voluntary unemployed or  
7 underemployed parent as specified; providing definitions;  
8 and providing for an effective date.

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10 *Be It Enacted by the Legislature of the State of Wyoming:*

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12 **Section 1.** W.S. 20-2-201(d) and by creating a new  
13 subsection (h), 20-2-303(a)(ii), 20-2-304(c) and  
14 20-2-307(b)(xi)(intro) are amended to read:

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1           **20-2-201. Disposition and maintenance of children in**  
2 **decree or order; access to records.**

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4           (d) The court shall order custody in well defined  
5 terms to promote understanding and compliance by the  
6 parties. Custody shall be crafted to promote the best  
7 interests of the children~~., and may include any combination~~  
8 ~~of joint, shared or sole custody.~~ The court shall enter an  
9 order of shared custody unless there is a preponderance of  
10 the evidence of any of the following that:

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12                   (i) Sole physical custody is in the best  
13 interests of the children;

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15                   (ii) The parties no longer reside within fifty  
16 (50) miles of each other and sole custody is the only  
17 practical arrangement;

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19                   (iii) The parties do not communicate with each  
20 other in a manner that ensures shared custody is in the  
21 best interest of the children.

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23                   (j) For purposes of this section:

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(i) "Joint legal custody" means both parents share the decision making rights, responsibilities and authority related to the health, education and welfare of the children;

(ii) "Joint physical custody" means the children physically reside with each parent for a substantially equal amount of time each calendar year, with a parental plan crafted to promote the best interests of the children;

(iii) "Shared custody" means a child custody arrangement that includes both joint legal custody and joint physical custody;

(iv) "Sole physical custody" means a child custody arrangement in which the children reside with one (1) parent the majority of each calendar year, subject to any visitation order made pursuant to W.S. 20-2-202.

**20-2-303. Definitions.**

(a) As used in this article:

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2           (ii) "Income" means any form of payment or  
3 return in money or in kind to an individual, regardless of  
4 source. Income includes, but is not limited to wages,  
5 earnings, salary, commission, compensation as an  
6 independent contractor, temporary total disability,  
7 permanent partial disability and permanent total disability  
8 worker's compensation payments, unemployment compensation,  
9 disability, annuity and retirement benefits, tax refunds,  
10 and any other payments made by any payor, but shall not  
11 include any earnings derived from overtime work unless the  
12 court, after considering all overtime earnings derived in  
13 the preceding twenty-four (24) month period, determines the  
14 overtime earnings can reasonably be expected to continue on  
15 a consistent basis. In determining income, all reasonable  
16 unreimbursed legitimate business expenses shall be  
17 deducted. Means tested sources of income such as Pell  
18 grants, aid under the personal opportunities with  
19 employment responsibilities (POWER) program, supplemental  
20 nutrition assistance program and supplemental security  
21 income (SSI) shall not be considered as income. Gross  
22 income also means potential income of parents who are  
23 voluntarily unemployed or underemployed;

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2       **20-2-304. Presumptive child support.**

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4       (c) The total number of days that each parent shall5 have the children in their care shall be calculated. When

6 each parent keeps the children overnight for more than

7 forty percent (40%) of the year and both parents contribute

8 substantially to the expenses of the children in addition

9 to the payment of child support, a joint presumptive

10 support obligation shall be determined by use of the

11 tables. After the joint presumptive child support

12 obligation is derived from column three of the tables, that

13 amount shall be divided between the parents in proportion

14 to the net income of each. The proportionate share of the

15 total obligation of each parent shall then be multiplied by

16 the percentage of time the children spend with the other

17 parent to determine the theoretical support obligation owed

18 to the other parent. The parent owing the greater amount of

19 child support shall pay the difference between the two (2)

20 amounts as the net child support obligation.

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22       **20-2-307. Presumptive child support to be followed;**23 **deviations by court.**

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2 (b) A court may deviate from the presumptive child  
3 support established by W.S. 20-2-304 upon a specific  
4 finding that the application of the presumptive child  
5 support would be unjust or inappropriate in that particular  
6 case. In any case where the court has deviated from the  
7 presumptive child support, the reasons therefor shall be  
8 specifically set forth fully in the order or decree. In  
9 determining whether to deviate from the presumptive child  
10 support established by W.S. 20-2-304, the court shall  
11 consider the following factors:

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13 (xi) Whether either parent is voluntarily  
14 unemployed or underemployed. In such case the child support  
15 shall be computed based upon the potential earning capacity  
16 (imputed income) of the unemployed or underemployed parent  
17 at the prevailing wage and salary levels in the local area  
18 in which the parent resides. In making that determination  
19 the court shall consider:

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21 **Section 2.** This act is effective July 1, 2017.

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(END)